

P-428/M-90-1120 ORDER APPROVING PROPOSAL FOR RATE REDUCTION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of a Proposal by  
Sleepy Eye Telephone Company to  
Provide Extended Area Service  
Between Sleepy Eye and Hanska,  
and Between Mazeppa and Goodhue,  
and to Eliminate Current EAS  
Additives Charged to Goodhue and  
White Rock Subscribers

ISSUE DATE: October 2, 1992

DOCKET NO. P-428/M-90-1120

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RATE REDUCTION

**PROCEDURAL HISTORY**

The Department of Public Service (the Department) initiated an investigation of the earnings of Sleepy Eye Telephone Company (Sleepy Eye or the Company) under the above-referenced docket number. During its investigation the Department decided that in 1991 Sleepy Eye was earning a higher return on equity (ROE) than was reasonable or necessary.

Sleepy Eye responded with a proposal to lower earnings to the ROE level recommended by the Department. The proposal included reductions in rates for local service Custom Calling features, Touch Tone service, recording service, and local operator services. An additional reduction in local service for the Mazeppa exchange served by Sleepy Eye was proposed. The Department agreed with these proposals and they have since been implemented.

In order to effect further necessary reductions in rates, the Company submitted on May 20, 1992 two proposals regarding extended area service (EAS). Sleepy Eye proposed implementing EAS routes between the Sleepy Eye and Hanska exchanges and between the Mazeppa and Goodhue exchanges, without additional charge to customers. Implementing EAS without additional charge would result in an earnings reduction because the Company would no longer receive access charge revenue from interexchange carriers for these routes. The Company also proposed eliminating the EAS additives that are currently being charged to customers in the Goodhue and White Rock exchanges, which have EAS to other communities. Lower revenues from the elimination of these EAS additives would contribute to the required earnings reduction. If both EAS proposals were put into effect, the Company would achieve the necessary earnings reduction.

On July 23, 1992, the Department filed its report on the Company's EAS rate reduction proposals. The Department recommended that the Commission accept the Company's proposals and consider the Department's earnings investigation closed.

The matter came before the Commission for consideration on September 8, 1992.

## **FINDINGS AND CONCLUSIONS**

### **Impact of the Proposed EAS Changes**

Sleepy Eye currently serves customers in the Mazeppa, Hanska, Sleepy Eye, Goodhue and White Rock exchanges. The Goodhue exchange currently has EAS to Red Wing, and the White Rock exchange currently has EAS to Cannon Falls and Red Wing. If the proposed EAS changes were put into effect, the exchanges of Mazeppa, Hanska, Sleepy Eye and Goodhue would experience significant increases in their callable base without an increase in rates. Goodhue would in fact receive a rate reduction through the elimination of its current EAS additive. The callable base in White Rock would not increase, but the exchange would receive a rate decrease through the elimination of its EAS additive. As a result of these changes as a whole, the total local rates in all the exchanges served by Sleepy Eye would become equal, without any exchange experiencing a rate increase.

If the Company's EAS proposals were not approved by the Commission, the Company would probably decrease rates for its local service in order to achieve the rate reduction recommended by the Department. The Company has indicated that the reduction for local residential service would be minimal.

### **Analysis of the Company's EAS Proposals**

A petition for the implementation of EAS would ordinarily be analyzed under the provisions of Minn. Stat. § 237.161, the governing EAS statute. This statute, which was enacted in 1990, establishes the criteria by which the sufficiency of an EAS petition is judged. Prior to the enactment of the EAS statute, the only guidance for assessing EAS petitions was found in Minn. Rules, parts 7815.0700 through 7815.1500.

The set of facts surrounding this EAS proposal is unusual because in this case the EAS proposal was filed by Sleepy Eye Telephone Company, not by subscribers in the Sleepy Eye exchanges. Most if not all other EAS dockets have resulted from petitions filed by subscribers in the petitioning exchanges.

Minn. Stat. § 237.161 does not specify expressly if it covers all EAS matters or only customer-initiated petitions. The EAS rule, which is still valid in matters in which it does not conflict with the EAS statute, does provide guidance on the identity of petitions. The first two sentences of Minn. Rules, part 7815.0700 read:

Customers that desire installation or removal of extended area service from an exchange shall file a petition with the Department of Public Service. A copy shall be served on the telephone company that serves the exchange and on the telephone company that serves the exchange to which the installation or removal of extended area service is desired.

Thus, Minn. Rules, part 7815.0700 contemplates an EAS petition which will be filed by a customer in the petitioning exchange. The EAS statute itself doesn't define an EAS "petition." Since the statute is ambiguous on that point, the Commission must construe the statute and determine legislative intent. The legislative history is helpful in this determination. Drafters of the statute were responding to various attempts to amend the Commission rules dealing with customer-initiated EAS petitions. The Commission therefore believes that the legislature intended Minn. Stat. § 237.161 to govern customer-initiated EAS petitions only, not all EAS proposals.

Under this analysis, the Sleepy Eye settlement proposal does not fall within the concept of an EAS petition under governing Minnesota EAS statute and rules, because the proposal was filed not by customers in the petitioning exchanges but by the telephone company serving the exchanges. The EAS proposal will therefore not be subject to the provisions of the EAS rule or statute.

The Commission is not without statutory guidance in assessing the Company's proposal, however. Minn. Stat. § 237.07 establishes a duty in every Minnesota telephone company to furnish reasonably adequate service and facilities for the accommodation of the public, and to charge rates, tolls and charges which are fair and reasonable. All unreasonable rates, tolls, and charges are declared to be unlawful. Based on this statute, therefore, the Commission has the authority to examine the Sleepy Eye EAS proposals in the context of the earnings investigation, and to decide if the proposals should or should not be approved.

#### **Commission Action**

The Commission has reviewed the Company's EAS proposals and finds that they result in fair and reasonable rates and should be approved. The proposals are in the public interest because they benefit both ratepayers and the Company.

Sleepy Eye ratepayers will be benefitted by the EAS proposals. The implementation of two new EAS routes among the Sleepy Eye exchanges results in a significant increase in callable base for subscribers in four of five Sleepy Eye exchanges, without any increase in rates. The new EAS routes, plus the elimination of certain EAS additives, will move the Sleepy Eye rates toward parity among exchanges.

The Department's July 23, 1992 report indicates that subscribers in the two proposed EAS routes share vital common interests. The Sleepy Eye school district serves pupils from both Sleepy Eye and Hanska. Many Hanska residents use physicians and dentists in Sleepy Eye. The county government offices which serve residents in both Sleepy Eye and Hanska are located in Sleepy Eye. Mazeppa, an agricultural community, depends on certain vital businesses located in Goodhue, such as the grain elevator, feed mill, and implement dealers. Some Goodhue subscribers are located on the Mazeppa mail route. Clearly, residents in the two proposed EAS routes are linked by common interests and would be benefitted by toll-free calling.

Sleepy Eye Telephone Company will also be benefitted by the EAS proposals. The Company has apparently presented its most efficient method of implementing rate reductions recommended in the Department's earnings investigation. Approval of the proposals will mean that the Company will have achieved the necessary rate reduction and the investigation of its earnings will be closed.

For these reasons, the Commission will approve the EAS proposals submitted by Sleepy Eye Telephone Company. Because the EAS proposals are not subject to analysis under Minn. Stat. § 237.161 and the exchanges in the proposed routes clearly share common interests, the Commission will not require any polling of the subscribers in the relevant exchanges. The Commission will consider the Department's investigation of Sleepy Eye's 1991 earnings satisfactorily concluded.

#### ORDER

1. The EAS proposals filed by Sleepy Eye Telephone Company on May 20, 1992 are approved.
2. The Company shall notify customers of the changes approved here by a bill insert accompanying the first bill reflecting these changes.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)